IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 7990 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE J.M.PANCHAL

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

MANUBHAI GOBARBHAI VAGHELA

Versus

STATE OF GUJARAT

Appearance:

M/S THAKKAR ASSOC. for Petitioner

MR RC KODEKAR for Respondents No. 1 to 3

RULE NOT RECD BACK for Respondent No. 4

CORAM : MR.JUSTICE J.M.PANCHAL

Date of decision: 01/09/2000

ORAL JUDGEMENT

1. The order of detention dated July 3, 2000 passed by the District Magistrate, Rajkot in exercise of powers conferred on him by sub-section-2 of section-3 of the

Prevention of Black Marketing and Maintenance of Supplies of Essential Commodities Act, 1980 ("the Act" for short) against the petitioner is subject matter of challenge in the present petition which is filed under Article-226 of the Constitution.

2. The grounds of detention supplied to the detenu indicate that the petitioner was dealing in kerosene which is one of the essential commodities and the detaining authority having regard to the materials placed before him was satisfied that it was necessary to detain the detenu with a view to preventing him from acting in any manner prejudicial to the maintenance of supply of kerosene. Therefore, an order was made by him on July 3, 2000 directing to detain the petitioner.

3. Heard the learned counsel for the parties.

4. Several contentions have been urged by the learned counsel for the petitioner while assailing the validity of the order of detention. However, it is not necessary to refer to all of them except one, which in my opinion, merits acceptance.

5. The learned counsel for the petitioner submitted that some of the documents supplied to the detenu at the time when the detenu was detained, are not legible which has adversely affected his right to make effective representation against the order of detention and therefore, the continued detention of the detenu should be held to be illegal. This ground of challenge is raised in paragraph-3(m) of the petition.

6. It may be stated that in order to highlight the above referred to point, the petitioner has produced on the record of the case, original bunch of documents which was supplied to him at the time of his detention. A bare look at pages nos. 1, 2, 3 and 5 of the bunch makes it clear that the contents of those documents are not legible at all. The law requires supply of documents with grounds of detention immediately to the detenu so as to enable him to make effective representation before the competent authorities. Supply of illegible documents, in fact, amounts to non-supply of documents referred to and relied upon by the detaining authority. There is no manner of doubt that because of illegible documents supplied to the petitioner, his right of making effective representation which is guaranteed under Artile-22(5) of the Constitution is infringed. Therefore, the continued detention of the detenu will have to be regarded as illegal.

7. For the foregoing reasons, the petition succeeds. The continued detention of the detenu is held to be illegal. The respondents are directed to release the detenu immediately unless his presence is needed with reference to any other case. Rule is made absolute accordingly with no order as to costs.

(J.M. Panchal, J.)

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